

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

BARTEX RESEARCH, LLC,)	
)	
Plaintiff,)	
)	Civil Action No. 6:07cv385
vs.)	
)	
FEDEX CORPORATION, FEDEX)	JURY TRIAL DEMANDED
EXPRESS CORPORATION, FEDEX)	
GROUND PACKAGE SYSTEM, INC., and)	
FEDEX KINKO'S OFFICE AND PRINT)	
SERVICES, INC.,)	
)	
Defendants.)	
)	

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff, BarTex Research, LLC ("BarTex"), complains of defendants, FedEx Corporation, FedEx Express Corporation, FedEx Ground Package System, Inc., and FedEx Kinko's Office and Print Services, Inc. (collectively, "the FedEx defendants"), as follows:

NATURE OF ACTION

1. This is a claim for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code, including 35 U.S.C. §§ 271 and 281.

BARTEX RESEARCH, LLC AND THE PATENT-IN-SUIT

2. The patent-in-suit is United States Patent No. 6,666,377 ("the '377 patent"), entitled "Bar Code Data Entry Device" (Exhibit A). The '377 patent was filed on July 18, 2000 and issued on December 23, 2003.

3. BarTex Research, LLC is a Texas limited liability company with a place of business at 2775 Villa Creek Drive, Dallas, Texas 75234. BarTex owns all right, title and interest in and has standing to sue for infringement of the '377 patent.

FEDEX DEFENDANTS

4. FedEx Corporation ("FedEx Corporation") is a Delaware corporation and has its principal offices at 942 South Shady Grove Road, Memphis, Tennessee 38120.

5. Federal Express Corporation ("FedEx Express") is a Delaware corporation and has its principal offices at 942 South Shady Grove Road, Memphis, Tennessee 38120.

6. FedEx Ground Package System, Inc. ("FedEx Ground") is a Delaware corporation and has its principal offices at 1000 FedEx Drive, Moon Township, Pennsylvania 15108.

7. FedEx Kinko's Office and Print Services, Inc. ("FedEx Kinko's") is a Delaware corporation and has its principal offices in Dallas, Texas.

8. FedEx Corporation has been repeatedly sued in this district, including in patent infringement cases, without contesting jurisdiction (see, e.g., Hosein v. FedEx Corp., U.S. District Court for the Eastern District of Texas (Beaumont Division), Case No. 1:03-cv-01462; Ronald A. Katz Technology Licensing, L.P. v. American Airlines, Inc. et al., U.S. District Court for the Eastern District of Texas (Marshall Division), Case No. 2:06-cv-00334).

9. FedEx Corporation, FedEx Express and FedEx Ground have also consented to jurisdiction in this district by filing a Notice of Removal as defendants to remove at least one case to this district (see, e.g., Branch v. FedEx Corporation et al.,

U.S. District Court for the Eastern District of Texas (Sherman Division), Case No. 4:07-cv-00356).

JURISDICTION AND VENUE

10. This Court has exclusive jurisdiction over the subject matter of this case under 28 U.S.C. § 1338(a).

11. The FedEx defendants are subject to personal jurisdiction in this judicial district because they have transacted business and have committed acts of infringement in this district, at least by making, using, offering to sell, and selling infringing products through FedEx locations located in this judicial district and through websites that are designed to reach and are, in fact, used by customers in this judicial district.

12. Venue is proper in this judicial district under 28 U.S.C. §§ 1391 and 1400(b) because the FedEx defendants are subject to personal jurisdiction, do business and have committed acts of infringement in this judicial district.

INFRINGEMENT

13. The FedEx defendants have directly infringed and are now directly infringing at least claims 1, 2, 5, 8, 10, 11, 13, 17 and 18-20 of the '377 patent through, among other activities, the manufacture, use, sale, and offer for sale of their FedEx shipping labels with at least two types of barcodes that have overlapping information and/or data. Such infringing activities have occurred at least through the operation of FedEx stores and FedEx websites (see, e.g., <http://www.fedex.com>).

14. These direct acts of infringement by the FedEx defendants as set forth above have also occurred in this judicial district. They include the operation of FedEx

stores located in this judicial district, such as the FedEx Kinko's located at 913 W Loop 281, Suite 01, Longview, Texas and the FedEx location at 1300 E. Whaler Street, Longview, Texas. These acts, particularly the selling and use of FedEx shipping labels, have also occurred through FedEx websites that reach customers in this district.

15. The FedEx defendants are also inducing third parties, particularly "FedEx Authorized Ship Centers" (e.g., AIM Mail Centers, Associated Mail and Parcel Centers, Navis Pack and Ship Centers, Pak Mail, Parcel Plus, Postal Annex Plus, and PostNet), and FedEx website users, to infringe the '377 patent and have contributed to the infringement of others. The FedEx defendants are inducing such acts of infringement and/or contributing to the infringement of others by, among other activities, providing third parties with instructions on how to make, use, sell, and offer to sell FedEx shipping labels as defined in at least claims 1, 2, 5, 8, 10, 11, 13, 17 and 18-20 of the '377 patent.

16. The acts of infringement set forth above have occurred in this judicial district, such as through FedEx websites that reach and instruct customers in this district to make and use FedEx shipping labels. Other acts of infringement set forth above have also occurred through FedEx's instructions to its "FedEx Authorized Ship Centers" located in this district, such as Total Packaging located at 1000 N 3rd St., Longview, Texas 75601. Particularly, FedEx has instructed its "Ship Centers" to at least make, use, sell, and offer to sell FedEx shipping labels with barcodes.

17. The FedEx defendants' infringement, contributory infringement and inducement to infringe have injured BarTex. Accordingly, BarTex is entitled to recover

damages adequate to compensate it for such infringement, but in no event less than a reasonable royalty.

18. The FedEx defendants' infringement, contributory infringement and inducement to infringe has injured and will continue to injure BarTex, unless and until this Court enters an injunction prohibiting further infringement of the '377 patent.

19. BarTex has complied with the requirements of 35 U.S.C. §287.

PRAYER FOR RELIEF

WHEREFORE, plaintiff, BarTex Research, LLC, respectfully requests this Court enter judgment against FedEx Corporation, FedEx Express Corporation, FedEx Ground Package System, Inc., FedEx Kinko's Office and Print Services, Inc., individually and separately, and against their subsidiaries, successors, parents, affiliates, officers, directors, agents, servants, employees, and all persons in active concert or participation with them, granting the following relief:

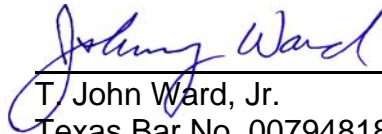
- A. The entry of judgment in favor of BarTex and against FedEx;
- B. An award of damages adequate to compensate BarTex for the infringement that has occurred (together with prejudgment interest from the date the infringement began), but in no event less than a reasonable royalty as permitted by 35 U.S.C. § 284;
- C. A finding that this case is exceptional and an award to BarTex of its attorneys' fees and costs as provided by 35 U.S.C. § 285;
- D. A permanent injunction prohibiting further infringement, inducement of infringement and/or contributory infringement of the '377 patent; and,

- E. Such other relief that BarTex is entitled to under law and any other relief that this Court or a jury may deem just and proper.

JURY DEMAND

BarTex demands a trial by jury on all issues presented in this complaint.

Respectfully submitted,



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